IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 30TH MARCH 2007 / 9TH CHAITHRA 1929

Crl.MC.No. 1052 of 2007()

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CC.2039/2004 of JUDL.MAGISTRATE OF FIRST CLASS, KARUNAGAPPALLY

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PETITIONER: ACCUSED NOS. 1 TO 4

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1. SAMSON, S/O.SEPRIYAN,
   EARAVELIL HOUSE, KULANGARA BHAGOM MURI,
   CHAVARA VILLAGE, KOLLAM DISTRICT.

2. JOSEPH, S/O.SEPRIYAN,
   EARAVELIL HOUSE, KULANGARA BHAGOM MURI,
   CHAVARA VILLAGE, KOLLAM DISTRICT.

3. THOMAS, S/O.SEPRIYAN,
   EARAVELIL HOUSE, KULANGARA BHAGOM MURI,
   CHAVARA VILLAGE, KOLLAM DISTRICT.

4. VARKEY, S/O.JOHN,
   CHERUPUSHPAM MANDIRAM, S/O.SEPRIYAN,
   EARAVELIL HOUSE, KULANGARA BHAGOM MURI,
   CHAVARA VILLAGE, KOLLAM DISTRICT.

BY ADV. SRI.P.A.NOOR MUHAMMED
SRI.C.K.PRASAD

RESPONDENTS: COMPLAINANT

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STATE OF KERALA, REPRESENTED BY THE
SUB INSPECTOR OF POLICE, CHAVARA, THROUGH
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.C.M.KAMAPPU

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 30/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R.BASANT, J**

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**Crl.M.C.No.1052 of 2007**

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Dated this the 30th day of March, 2007

**ORDER**

The petitioners face allegations under Section 20 read with Section 27 of the Arms Act. The alleged offence took place on 19.12.2004. Crime was registered on the same day. Investigation was completed. Final report was filed. Cognizance was taken by the learned Magistrate as early as on 31.12.2004. The petitioners have appeared before the learned Magistrate. Proceedings are in progress.

2. At that stage, this petition has been filed on 29.03.2007 to quash the proceedings which have been initiated against the petitioners. The jurisdiction which is sought to be invoked is the extraordinary inherent jurisdiction under Section 482 Cr.P.C. It is not to be invoked as a matter of course. Sufficient and satisfactory reasons must be shown to exist to justify the invocation of such jurisdiction. Has justice failed ? Is there miscarriage of justice ? Is there abuse of process of Court ? These are the crucial questions that would weigh with the Court at this stage. The mere fact that the accused may be entitled to discharge/acquittal will not ip so facto persuade this Court to invoke the jurisdiction under Section 482 Cr.P.C. I have heard the contentions of the learned counsel for the

petitioner. I shall not at this stage advert in detail to those contentions, lest it may adversely affect the interests of the petitioners in the proceedings before the learned Magistrate. Suffice it to say that I am satisfied that this is not a fit case where the powers under Section 482 Cr.P.C can or ought to be invoked. It is submitted that charges have not been framed by the learned Magistrate so far. It is for the petitioners to raise such contention before the learned Magistrate and claim discharge at the stage of Section 239/240 Cr.P.C if charges have not been framed and if not, at the later stages of the proceedings.

3. This Crl.M.C is, dismissed, with the above observations.

**(R.BASANT, JUDGE)**

rtr/-